

Minutes of a Regular Meeting

Approved 1/4/07

Town of Los Altos Hills PLANNING COMMISSION

THURSDAY, October 19, 2006, 7:00 p.m.

Council Chambers, 26379 Fremont Road

cc: Cassettes (2) #12-06

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

The regular meeting of the Planning Commission was called to order at 7:00 p.m. in the Council Chambers at Town Hall.

Present: Chairman Collins, Commissioners Carey, Clow, Cottrell & Harpootlian

Staff: Debbie Pedro, Planning Director; Henry Louie, City Engineer; Brian Froelich, Assistant Planner; Nicole Horvitz, Assistant Planner; Victoria Ortland, Planning Secretary

2. PRESENTATIONS FROM THE FLOOR

Sandra Humphries expressed concern over a new residence under construction in Town that is very close to the top of a drainage swale. She considered it a serious issue with potential danger to the homeowner and possible liability to the Town.

3. PUBLIC HEARINGS

- 3.1 LANDS OF ANDREWS, 26030 Newbridge Drive (138-06-ZP-SD); A request for a Site Development Permit for a landscape screening plan. The proposal includes partial perimeter screening for a 7,510 square foot new residence that was approved at the Fast Track Hearing on March 15, 2006. CEQA review - Categorical Exemption per Section 15304 (b) (staff-Brian Froelich).

Brian Froelich, Assistant Planner, presented the staff report and stated that the landscape screening plan was for a new single story residence that had been approved at a Fast Track hearing in March of 2005. The new residence included a partial basement, detached garage and pool. The site had a public utility easement on the west side, a sanitary sewer easement on the north side and a combination storm drain and open space easement over a swale near Newbridge Drive on the west side of the property. The screening plan included a row of 15 gallon white oleander and English laurel along the sewer easement on the northern boundary, several 15 gallon acacia trees along the eastern boundary and additional 15 gallon English laurel along the southern boundary. A combination of native species shrubs in 5 and 15 gallon size of toyon, wax myrtle and silktassel would be planted along the storm drain easement near Newbridge Drive. During the review of the project a neighboring property owner, Alex Atkins, presented several project concerns. Mr. Atkins felt the proposed row of oleanders on the north side was not sufficient in size to screen the detached garage from his property. The applicant increased

the size of the oleanders but did not extend the hedge past the garage. Mr. Atkins was also concerned about eucalyptus trees on the site and in the right-of-way along Newbridge Drive. Staff contacted Barrie Coate and Associates to prepare an evaluation of the trees. An evaluation was conducted to determine if any of the trees was a public nuisance or an immediate hazard. No tree was specifically identified as a public nuisance or an immediate hazard but the report did recommend removal of seven trees and maintenance measures for the other five trees. Although not currently a public nuisance, best horticultural practice would suggest trimming or removing the trees as they may become a public nuisance over time. The project is not subject to the recently adopted Eucalyptus Ordinance. Nine neighbors have signed a petition requesting that the Planning Commission allow the Andrews to keep the eucalyptus trees along the front of the property. The Planning Commission can review street trees in connection with a landscape plan and require maintenance or additional planting of street trees.

Commissioner Carey asked what species of plants are allowed to be planted in a sanitary sewer easement.

Town Engineer, Henry Louie replied that trees are not recommended in a drainage easement because of maintenance issues. If trees obstruct maintenance vehicle access the trees will be removed. There are no set standards for planting in easements only suggestions. No trees are recommended for sewer easements because the tree roots enter the sanitary sewer pipes and cause pipe damage.

Commissioner Clow asked staff to comment on City Attorney Steve Mattas' letter.

Planning Director, Debbie Pedro replied that Mr. Mattas had been asked to clarify the authority of the Planning Commission in relationship to the landscape screening permit. Specifically mentioned was section 12-2.201 regarding Planning Commission site development authority and City Council review of street trees in connection with a landscape plan. Clarification from the City Attorney was sought whether maintenance of trees included the removal of trees. If so, that would provide a way for the Commission to utilize that section of code to require the removal of eucalyptus trees in the right-of-way. The legal opinion from the City Attorney was the removal of trees is not something the Commission can compel the applicant to do as part of this landscape screening permit but it may require that the trees be maintained.

Commissioner Harpootlian confirmed with City Engineer Henry Louie that debris that fell from trees into the drainage system was an issue with trees planted in a drainage easement. Proper maintenance needed to be done by the property owner.

Commissioner Carey asked if the reason the landscape screening plan was before the Commission was because of the neighborhood controversy and no other planning issues.

Eric Andrews, applicant, stated that he and his wife were building a new house on Newbridge Drive and look forward to raising their two daughters in Los Altos Hills. They were attracted to the property on Newbridge Drive because of the rural nature of Los Altos Hills, the proximity to downtown, good public schools and the number of mature trees on the lot. At the start of the project all neighbors were invited to view the plans and feedback was solicited. The neighbors

were very supportive and especially liked the single story design of the house. Some issues over trees on the lot were identified and rectified. Alex Atkins was unable to attend the neighborhood meeting but Mr. Andrews contacted him and shared the project plans. Mr. Atkins expressed concerns over six eucalyptus trees near the garage bordering his property and requested removal of the trees. McClenahan tree service was employed from the beginning of the project to prune and maintain the trees in the front and back of the lot. All the trees on the site were viewed by Mr. Andrews, McClenahan Tree Service and Tom Klope, landscape architect, prior to clearing the lot. Unhealthy trees were identified and cut down including two of the eucalyptus trees bordering the Atkins' property. The remaining eucalyptus trees near the garage were pruned. After continued concerns from Mr. Atkins, the remaining four trees were removed. The landscape screening plan was submitted to the Town and scheduled for a Site Development Hearing. The project was rescheduled for a Planning Commission Public Hearing after concerns were raised regarding the plan and eucalyptus trees. Mr. Andrews felt confused and frustrated over the planning process and thought the project should not be affected by the debate over eucalyptus trees. He doesn't understand why the trees are an issue and felt they should have no relevance in a landscape screening permit. He understood the new Eucalyptus Ordinance does not apply to his project as the building permit was filed long ago. The staff had reported that an arborist checked the trees and concluded that none of the eucalyptus trees pose a public nuisance. Mr. Andrews wants to maintain and manage the trees. His arborist had different conclusions on some of the trees than the Town's arborist report. A petition to allow the Andrews' to keep the eucalyptus trees had been circulated among the neighborhood and presented to the Planning Commission. He felt he had cooperated with the Town and the neighbors throughout the process and tried to abide by all the ordinances. Mr. Andrews stated he is concerned with safety and as a homeowner takes seriously the responsibility of maintaining safe trees on his property. He understood he is not in violation of any ordinance; the trees do not pose a public nuisance and the neighbors that live with the trees all support his plan. He saw no reason why he should not have the right to as a property owner to maintain his trees and save those that can be saved. He requested that the Planning Commission not require the removal of any of the trees and respect his right as a homeowner to manage and maintain the trees in the front of the property with the help of his certified arborist and tree service firm. He also requested the Planning Commission allow planting of shallow rooted screening shrubs in the sewer easement to help screen the open area on the north side of the property. He had heard comments from some of the neighbors concerning the lack of screening in that location and wanted to rectify the situation. The property had been cleared with the intent to plant along the fence line and with the understanding that screening shrubs could be planted in the sewer easement. He felt there would be a problem with screening if he was not permitted to plant in the sewer easement. His home title wording did not seem to prohibit planting in the sewer easement. He asked the Planning Commission to approve the landscape screening plan with the additions mentioned.

Commissioner Carey asked how many eucalyptus trees had already been removed on the lot and the removal cost per tree.

Mr. Andrews replied that nine trees had been removed at an average cost of \$5,000 per tree. He felt the most cost effective time to remove trees is when a lot is cleared for the building site.

Commissioner Clow asked Mr. Andrews if he had discussed the placement of shrubs in the sewer easement with Town staff.

Mr. Andrews had not discussed at length with staff the issue of shrubs in the easement.

Commissioner Cottrell could see no reason why a property owner should be prevented from planting shallow rooted shrubs in an easement if it is understood that when sewer maintenance or repair occurs the plants will need to be removed to provide access.

Discussion ensued regarding the planting of trees and shrubs in easements, landscape replacement responsibility after sewer repair or maintenance and the effect on the Andrews project.

Mr. Andrews stated that he would accept responsibility to replace any shrubs that may need to be removed from the easement in the future.

OPENED PUBLIC HEARING

George Scalise, Newbridge Drive resident of nearly 40 years, welcomed the Andrews family and felt they were a wonderful addition to the neighborhood. He supported the Andrews' plan and had no objections. He hoped the Commission would support the plan and wanted the Andrews to enjoy the neighborhood as much as he has.

Robert Garner, Newbridge Drive resident of 20 years, stated that he sees no danger with the eucalyptus trees. He welcomed the Andrews family and felt that now that the lot has been cleared of mature vegetation only 6 or 8 mature trees remain to screen the new residence from the street. He would like the Commission to allow the Andrews to finish the landscaping and leave the trees.

Ron Lang, Newbridge Drive resident of 1 year, was attracted to the neighborhood because of the close proximity of the residents to one another combined with the rural nature of Los Altos Hills. He welcomed the Andrews to the neighborhood and stated that the eucalyptus trees were a benefit because the trees provide privacy screening for both his property and the Andrews' property. He sees no hazard or danger from the trees.

Jim Downey, Newbridge Drive resident of 32 years, was out of town when the petition was circulated and therefore his signature was not included. He stated that he appreciated that Mr. Andrews had removed a large leaning eucalyptus tree located on a common border of their properties. He felt the eucalyptus trees provide great screening and pose no safety hazard. He sees no reason to eliminate the eucalyptus trees because of a so called hazard. He respectfully asked the Commission to honor the consensus of the neighborhood in favor of keeping the trees and the property rights of the individual.

Commissioner Harpootlian asked Mr. Downey if reading the opinion in the certified arborist's report would change his view about the eucalyptus trees.

Mr. Downey stated that he hasn't seen the report but understood that there was a competing arborist's report. He walks past the trees frequently and he sees nothing wrong with the health of the eucalyptus trees. He would question the arborist's report as the final authority on the trees.

Jerry Tanaka, resident of Newbridge Drive for 26 years, felt the trees form a beautiful background and frame the sunset view from his home. He does not want to see the trees removed and cause a great loss to the neighborhood. He asked the Commission not to force the property owners to remove the trees. He explained that the Andrews have already done much to maintain the trees by trimming and have improved the appearance of the lot. He is confident that Mr. Andrews will continue to maintain the trees.

Bob Berry, resident of Newbridge Drive for almost 20 years, welcomed the Andrews family to the neighborhood and fully supported the landscape plan. He has had much experience with eucalyptus trees on his property. The trees at the entrance of Newbridge Drive at La Paloma Road are very important for providing privacy screening to the Andrews home. He offered any assistance he could provide regarding his experience with eucalyptus trees in the neighborhood.

Renee Berry, resident of Newbridge Drive, spoke about the removal of 6 eucalyptus trees from her back yard as a compromise with her neighbors. She wished she had fought harder to save the trees and felt a true sense of loss over the tree removal. She hoped that the Andrews children would be able to play under the eucalyptus trees as she had as a child.

Sandra Berry, resident of Newbridge Drive, welcomed the Andrews family to the neighborhood. She read a quote written by consulting arborist Barrie Coate "Trees can be managed they but cannot be controlled. To live near trees is to accept some degree of risk. The only way to eliminate all risk associated with trees is to eliminate all trees." Barrie Coate had examined the eucalyptus trees on her property at Alex Atkins' request.

Alice Nuzzo, resident of Newbridge Drive for 15 years, stated that the Andrews had been extremely considerate to the neighbors after they purchased the lot. The site was very overgrown with brush and an arborist was hired before clearing the lot. The Andrews had shared the project plans with the neighbors and discussed the vegetation to be removed. Ms. Nuzzo liked the eucalyptus trees and believed they enhanced the neighborhood. She wished the Commission would consider allowing the trees to remain. The trees provide screening and privacy for the new home from the road.

Jeannine Koon, resident of Newbridge Drive for over 40 years, stated her signature was not on the petition because she was out of the country when it was circulated. She felt the neighborhood had gotten better over time with the fine houses, beautiful trees and gardens. She welcomed the Andrews family, appreciated the improvements made on the site and hoped the Commission would allow the Andrews to proceed with the landscaping.

Nancy Critchfield, resident of Newbridge Drive, stated she has seen a huge improvement in the Andrews' lot and expressed her support for any future improvements.

Dot Scalise, resident of Newbridge Drive, welcomed the Andrews family and was pleased to have their new residence in the neighborhood.

Sandy Tanaka, resident of Newbridge Drive, welcomed the Andrews family to the neighborhood and was appreciative of their effort to keep the neighbors informed about the project and keep concerns addressed. She loved the eucalyptus trees on Newbridge Drive, felt the trees were not dangerous and provided a beautiful view from her house.

Tom Turner, resident of Liddicoat Drive, built his home in 1968 adjoining an open space park of 200 acres. The open space contained many groves of eucalyptus trees that were a nuisance as debris and branches fell from the trees onto his property. He recounted the story of the fast moving fire of 1985 that destroyed his house. He had watched as the eucalyptus trees gave off a vapor seconds before they exploded into flames. He did not view eucalyptus trees as beautiful but rather as a reminder of bad memories.

Alex Atkins, resident of Orchard Hill Lane, thanked staff for their professionalism, responsiveness, patience and fairness with a problematic property that had challenged owners, contractors, architects, staff and neighbors. He respectfully requested the Planning Commission consider and implement the remedies he had asked for consistently. That included the removal of the eucalyptus tree closest to his property, the removal of the four eucalyptus trees planted on the sewer junction and the planting of the screening shrubs along the length of the garage. He has felt frustrated by the futility in conveyance of the preponderance of evidence in regard to the danger of eucalyptus trees. He completely acknowledged that the neighbors of Newbridge Drive love the eucalyptus trees and stated there was no denying subjectivity but they don't refute the facts that were overwhelming, compelling and irrefutable; that these trees kill. Mr. Atkins stated that today he had placed in the public record extensive documentation of the dangers that eucalyptus trees pose to human life and property. He felt that if eucalyptus trees contributed to another devastating fire or death, the documents establish known dangers, foresee ability and causation. The documents raise critical legal issues regarding liability and possible negligence for both the Town and the applicants. He stated that his point has been that these issues need to be resolved. The dangerous situation does jeopardize both the Town and the applicant's homeowner and liability insurance. He claimed that over the past 11 years eucalyptus trees from neighboring properties had cost in excess of \$46,000.00 for his family. Trees and limbs had fallen on his property damaging and destroying fences, trees and shrubs. The debris in the creek had caused repeated flooding that toppled trees and shrubs. The debris permanently stained and ruined the surface of the tennis court and debris consistently littered the pool and had damaged the equipment. He felt that the right of neighbors to possess dangerous trees and endanger their own families and property encroaches upon his right to create a safe environment for his children.

Commissioner Clow asked Mr. Atkins to elaborate on the increased liability to the Town.

Mr. Atkins explained that, as stated in the documents he had presented, the liability of eucalyptus trees is in knowing that the trees are dangerous. He stated that a homeowner cannot get a policy if there are dangerous eucalyptus trees on the property. A liability policy will not be issued unless the dangerous trees are removed. A town is liable if it is known that dangerous eucalyptus

trees exist and one falls. He continued that liability hinges on the concept of foresee ability. Foresee ability is when it can be foreseen that a limb may drop or if it can be foreseen that a eucalyptus tree may explode in a fire. If it is foreseen that these things could happen and did happen, the Town would be exposed to a massive lawsuit that would wipe out Town reserves. In regards to Mr. Andrews, if a tree were to fall and kill someone, a massive negligent homicide litigation case would ensue. The whole case would center on whether the event was preventable and whether the event was foreseeable. The lawsuit would pursue the homeowner and then the Town if the event had been foreseeable. When the insurance companies evaluate the data now in the public record that states that trees do start fires and trees do kill people they will refuse to cover the policy and devastate the applicant's financial situation.

Commissioner Carey asked if the documents that Mr. Atkins entered into the public record had increased the Town's liability because he had pointed out something that was not previously known. Was Mr. Atkins trying to recommend that the Town remove the eucalyptus trees to reduce the Town's liability after he had increased the liability by entering the document into the public record?

Mr. Atkins replied that this was correct but most of the information in the document consisted of findings from Town staff. The Town was aware of the danger and the Eucalyptus Ordinance had been developed. The findings are in the public record and the additional information is to say that there is no way that it can be argued that eucalyptus trees cannot topple; limbs cannot fall and the trees cannot explode. Mr. Atkins referenced the letter from Francis LaPoll in which the attorney for Portola Valley discussed the issue of liability and sighted the fire that Tom Turner had talked about. The residents of Liddicoat Drive sued Palo Alto after the fire for gross negligence and won the lawsuit. The judge in the case sighted that Palo Alto knew that the eucalyptus trees were explosive, could topple and drop limbs but had done nothing despite repeated requests from the homeowners on Liddicoat Drive. He feels the Town is in a situation like Palo Alto and needs to recommend removal of eucalyptus trees to take the liability of the trees away from the Town.

Richard Nuzzo, resident of Newbridge Drive and retired insurance businessman, spoke to refute some earlier statements. He said that homeowners might not get an insurance policy if they owned a dog that bites or if there was a reckless or drunk driver in the family but he had never heard of a policy refused because of a tree. He felt that the fire damage on Liddicoat Drive was a disaster but was not caused by the eucalyptus trees but instead from a lack of water pressure. Since that time two huge buildings with four pumps had been constructed to allow any similar future situations to be solved. He stated that the Andrews had proven they were concerned about the neighborhood and built a beautiful home and asked the Commission to approve the landscape plan. He felt that much time and taxpayer's money was being wasted on talk over the young, vibrant and beautiful trees.

Sandra Humphries, Environmental Design Committee, requested that the homeowner consider the possibility of changing some of the choices on the landscape plan. The oleander shrubs are poisonous and do not feed wildlife and could be replaced by a coffeeberry tree that makes a handsome hedge and feeds wildlife. The blackwood acacia shown on the plan can crowd out indigenous plants and could be replaced with live oak, hollyleaf cherry or bay laurel.

Angela Rumi, applicant, stated that the back side of the garage faces the street and if more of the eucalyptus trees were removed the curb appeal of the house would be drastically reduced. The house was designed with the eucalyptus trees considered as screening for the garage.

Commissioner Carey asked about the request to add shrubbery to the garage area.

Eric Andrews explained that the addition of more shrubs to extend the hedgerow would not provide additional screening value for the Atkins.

Angela Rumi explained that this application is for Town's requirement for landscape screening and not the entire landscape plan for the property.

Eric Andrews and Angela Rumi thanked their neighbors of Newbridge Drive for the warm welcome. Mr. Andrews stated that he is very committed to maintaining and managing the trees to mitigate any risk or liability.

Dan Cassas, attorney for the applicant, commented that towns are not responsible for limbs that fall from trees or trees that fall down. The sewer easement is a non-exclusive easement which means both the Town and the property owner had the right to use the land that is encompassed within the easement. Planting within the sewer easement was not prohibited.

CLOSED PUBLIC HEARING

Commissioner Carey felt that the Andrews had tolerated a lot and gone through a lot to get to this point. He did not think that the Planning Commission had an ordinance that applied in this situation to force the removal of the eucalyptus trees. He was in favor of allowing the applicant to proceed without the requirement to remove any of the trees. He recommended that the maintenance guidelines from the arborist's report be followed but would not require that.

Commissioner Clow stated the most significant thing to him was that the City Attorney had said the Planning Commission did not have jurisdiction to require removal of eucalyptus trees as part of landscape screening report. He felt that the authority, the City Attorney, had been asked if the choice of requiring removal was available to the Commission and the City Attorney had answered no. An exception may be for a public nuisance, which is narrowly defined, such as a tree about to fall. The arborist's conclusion on the trees for this project was none are a public nuisance. He does not see any decision to be made by the Planning Commission on the eucalyptus trees. He believes that eucalyptus trees can be a great hazard and it is a good thing to control them. He feels that no liability can be created because the Commission does not have the option to make the decision on the trees. The shallow rooted shrubs in the easement can clearly be worked out and is in favor with what staff can work out. If the applicants like some of the recommendations suggested by the Environmental Design Committee he is in favor of the substitutions.

Commissioner Harpootlian felt that the Town does support trees and agrees with the other Commission members that the Commission does not have the legal power to require the removal

of the trees. The trees should be removed but unfortunately the Commission doesn't have that control. He confirmed with Planning Director Debbie Pedro that if the eucalyptus tree in the easement died that it would have to be replaced with a non-invasive native species of tree because it is in a conservation easement. He wanted to add to the \$5,000 deposit, to extend the time frame and require annual reports to confirm that maintenance is being carried out. He supported staff recommendations for planting and access needed in the sewer easement.

Commissioner Cottrell stated his perspective was that tonight's meeting was to approve or disapprove a landscape screening plan not to hold a referendum on whether eucalyptus trees are acceptable or not. As far as he can see, the landscape screening plan is fine and screens the property as it is supposed to. The property owner is liable if eucalyptus trees or any other tree on his property causes damage to his property or another's. The Commission did not have the legal right to cause the applicant to remove the eucalyptus trees even if the Commission wanted to. He felt that a lot of time could have been saved if the landscape plan had been approved and he supports the plan.

Chairman Collins agreed with many of the comments from her fellow Commissioners. She felt a more important reason to meet and discuss the project was because it had created a strong passion in the neighborhood. The issue needed to come to this level so everyone could be heard with all feelings and thoughts considered. The landscape plan could have just been approved but a difference was definitely made with the shared thoughts. Chairman Collins agreed that the Commission did not have the authority to make a decision on the eucalyptus trees on the street. She wanted more consideration given to the tree labeled number 14. There is the possibility of debris being dropped into the swale and into the drainage section and the required cleanout. Also, the tree report stated that eucalyptus trees planted in a swale may become frail and damaged more easily and more apt to fall. She feels the tree in the location of the swale is likely to be a problem. She suggested a reason to remove the tree could be a last offer of compromise. The eucalyptus tree could be replaced by a native tree to provide screening. The shrubs along the fence line should be worked out reasonably with staff, perhaps allowing shallow rooted shrubs with room available for access.

Commissioner Harpootlian asked if the Commission had the right to work with eucalyptus tree number 14 because it is in an easement.

Brian Froelich, Assistant Planner, replied the open space easement did not include language regarding existing plantings but future planting would need to be a native species.

MOTION SECONDED, AMENDED AND PASSED: Motion by Commissioner Carey and seconded by Commissioner Clow in regard to Lands of Andrews, 26030 Newbridge Drive to approve the requested site development permit for landscape screening subject to attached conditions of approval in Attachment 1. Add a condition to have the applicants consider the planting recommendations by the Environmental Design Committee being worded just as a consideration. Also, add a condition that the applicants be allowed to plant shallow rooted shrubs in the sewer easement as approved by staff.

Debbie Pedro, Planning Director, requested to amend the easement agreement between the Town and the homeowners if necessary to ensure that the Town will not be responsible for the cost of landscaping replacement in the event of needed access.

AYES: Chairman Collins, Commissioners Carey, Clow, Cottrell
NOES: Commissioner Harpootlian

MOTION SECONDED AND PASSED: Motion by Chairman Collins and seconded by Commissioner Harpootlian that the applicants consider the Commission's suggestion to remove eucalyptus tree number 14 in the open space easement and replace it with a native tree.

AYES: Chairman Collins, Commissioners Harpootlian, Clow
NOES: Commissioners Carey, Cottrell

This decision is subject to a 22 day appeal period.

- 3.2 LANDS OF DUBEY, 26475 Ascension Drive (114-06-ZP-SD); A request for a Site Development Permit for a 850 square foot pool & spa and a landscape screening plan. CEQA Review: Categorical Exemption per Section 15303 (e) (staff-Debbie Pedro).

Debbie Pedro, Planning Director, presented the staff report and stated the applicants are proposing a new backyard pool and spa for the new single story residence with garage. There is an existing oleander hedge that provides significant screening of the property from the front. When the new house was approved in 2003, immediate landscaping was required to be installed to mitigate the view of the water tanks along the south property line. Included were three fairly large oak trees, two 48" box magnolia trees and a row of 24" box laurel cherry. In September it was noted that one oak tree and two laurel cherry trees were missing. It is recommended that the three trees be replaced as part of the landscape approval. The applicant is adding six 36" box pear trees, 24" box trees close to the house in front and no landscaping would be planted in the sewer easement along the northern property line.

Commissioner Carey confirmed with Debbie Pedro that the landscaping in front of the water tanks had been installed two years earlier but had not survived.

Ron Godby, builder representing the applicant, stated that the oak trees and some others had been planted but three did not survive and will be replaced.

Commissioner Clow told of the high praise given to Godby Builders from one of the Dubey's neighbors.

Commissioner Harpootlian asked about the drainage on the Dubey's property.

OPENED PUBLIC HEARING

Sandra Humphries, Environmental Design Committee, requested that the applicants consider pachysandra, Siberian bellflower or star jasmine instead of the vinca minor on the landscape plan.

CLOSED PUBLIC HEARING

Commissioner Cottrell thought the plan was complete and he gave his support.

Commissioner Harpootlian asked about the location of the pool equipment and stated he had no other questions.

Commissioner Carey was in favor of approving the project.

Commissioner Clow was in favor of the project. He suggested that the trees had died because of the construction process and as the house is completed and watering more consistent the landscaping will thrive.

Chairman Collins agreed with her fellow Commissioners.

MOTION SECONDED AND PASSED: Motion by Commissioner Cottrell and seconded by Commissioner Clow to approve the site development permit for a swimming pool, spa and landscape screening plan for Lands of Dubey, 26475 Ascension Drive.

AYES: Chairman Collins, Commissioners Carey, Clow, Cottrell and Harpootlian

NOES: None

This decision is subject to a 22 day appeal period.

4. OLD BUSINESS-none

5. NEW BUSINESS

5.1 QUARTERLY SOLAR REPORT

Nicole Horvitz, Assistant Planner, introduced the quarterly summary of solar photovoltaic permits approved by the planning and building department for the third quarter of 2006.

Debbie Pedro, Planning Director, pointed out that 14 permits had been approved in the past three months that included 10 roof mounted permits and 4 ground mounted permits. Three of the projects took advantage of the development area exemption for up to 500 square feet and one project that was approved took advantage of the development area bonus.

Commissioner Harpootlian was interested in including information on the next quarterly report regarding the mounted height of the solar panels and if “tracker” type systems were installed.

The Planning Commissioners complimented Nicole Horvitz for the good job she had done developing the new report.

6. REPORT FROM THE CITY COUNCIL MEETING

6.1 Planning Commission Representative for Sept 14th, Commissioner Harpootlian reported on the following: Purissima Hills Water District news, Volunteer Dinner invitations, homeland security class, solar panel “tracker” system presentation and Town e-mail tracking.

6.2 Planning Commission Representative for Sept 28^h-Chairman Collins

6.3 Planning Commission Representative for Oct. 12th-Commissioner Carey

6.4 Planning Commission Representative for Oct. 26th-Commissioner Cottrell

7. APPROVAL OF MINUTES

7.1 Approval of September 7, 2006 minutes

MOTION SECONDED AND APPROVED BY THE FOLLOWING VOICE VOTE: Motion by Commissioner Harpootlian, seconded by Commissioner Cottrell to approve the September 7, 2006 minutes as presented.

AYES: Chairman Collins, Commissioners Carey, Clow, Cottrell & Harpootlian

NOES: None

8. REPORT FROM FAST TRACK MEETING-OCTOBER 3 AND OCTOBER 10 AND OCTOBER 17, 2006

8.1 LANDS OF JUNG, 25810 Vinedo Lane (130-06-ZP-SD-GD) A request for a Site Development Permit for a 998 sq. ft. second unit (maximum height 21’6”), 1,080 sq. ft. pool, 7,174 sq. ft. tennis court, and hardscape improvements. CEQA Review: 15303(a) and (e) (staff-Nicole Horvitz). Approved with conditions.

8.2 LANDS OF YANG, 28020 Laura Court (92-06-ZP-SD-GD) A request for a Site Development Permit for a 6,325 sq. ft. new residence with a 1,100 sq. ft. attached four-car garage, 655 sq. ft. second unit dwelling and a new pool (maximum height 27’). CEQA Review: exempt per 15303(a) (staff-Nicole Horvitz). Approved with conditions.

Debbie Pedro, Planning Director explained that this project was the one that Sandra Humphries had discussed at the beginning of the meeting. The drainage swale referred to was a requirement of a drainage improvement for the subdivision in 1999 or 2000. This project received approval for the new residence in 2001 but the permit expired. The project received approval again in 2006. Debbie confirmed that the house is close to the edge of the drainage easement.

Chairman Collins expressed concern over the residence being constructed so near the easement. Staff was directed to examine the issue of building close to creeks and drainage swales and return at another meeting for discussion.

8.3 LANDS OF WINNER, 13880 Ciceroni Lane (120-06-ZP-SD-GD); A request for a Site Development Permit for a remodel of an existing residence. The floor area and development area will be reduced and there is no proposed change to the height of the building. CEQA Review: exempt per Section 15301 (d) (staff-Brian Froelich). Approved with conditions.

9. REPORT FROM SITE DEVELOPMENT MEETING-SEPTEMBER 12, SEPTEMBER 19, AND OCTOBER 3, 2006

9.1 LANDS OF MOFIDI, 12693 Roble Veneno Lane (117-06-ZP-SD); A request for a Site Development Permit for an 824 square foot addition and remodel. The proposal includes the removal of a 238 square foot accessory building. CEQA Review: exempt per 15301 (e) (staff-Brian Froelich). Approved with conditions.

9.1 LANDS OF SINGH, 27359 Julietta Lane (123-06-ZP-SD); A request for a Site Development Permit for a 465 square foot addition, remodel, and a new deck. CEQA Review: exempt per 15301 (e) (staff-Brian Froelich). Approved with conditions.

9.2 LANDS OF BLACKMAN, 13815 Barton Court (141-06-ZP-SD); A request for a Site Development Permit for landscape screening. CEQA Review: Categorical Exemption per 15304(b). (staff-Nicole Horvitz). Approved with conditions.

9.3 LANDS OF DENUCCIO, 25991 Vinedo Lane (156-06-ZP-SD); A request for a Site Development Permit for landscape screening. CEQA Review: Categorical Exemption per 15304(b) (staff-Nicole Horvitz). Approved with conditions.

9.4 LANDS OF REYES, 12640 Robleda Road (95-06-ZP-SD); A request for a Site Development Permit for a 1,706 square foot pool, spa, and decking. CEQA Review: exempt per Section 15303 (e). (staff-Brian Froelich). Approved with conditions.

10. ADJOURNMENT

The meeting was adjourned by consensus at 9:09 p.m.

Respectfully submitted,

Victoria Ortland
Planning Secretary